

EXHIBIT C

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN FRANCISCO**

11 RICK BOWLINGER, derivatively on
12 behalf of PG&E Corporation and Pacific
13 Gas & Electric Company,

Plaintiff,

14 v.

15 LEWIS CHEW; RICHARD C. KELLY;
16 FRED J. FOWLER; ROGER H. KIMMEL;
17 RICHARD A. MESERVE; FORREST E.
18 MILLER; BENITO (BEN) MINICUCCI;
19 ERIC D. MULLINS; ROSENDO (RO) G.
20 PARRA; BARBARA L. RAMBO; ANNE
21 SHEN SMITH; GEISHA J. WILLIAMS;
22 ANTHONY F. EARLEY JR.; JASON P.
23 WELLS; PATRICK M. HOGAN; JULIE
24 M. KANE; DINYAR B. MISTRY; DAVID
25 S. THOMASON; MARYELLEN C.
26 HERRINGER; JEH C. JOHNSON;
27 NICKOLAS STAVROPOULOS;
28 CHRISTOPHER P. JOHNS, BARRY
LAWSON WILLIAMS; and DOES 1
through 50, inclusive,

Defendants,

and

PG&E CORPORATION and PACIFIC
GAS & ELECTRIC COMPANY,

Nominal Defendants.

Case No. CGC-18-572326

**PLAINTIFF'S RESPONSE TO NOMINAL
DEFENDANTS PG&E CORPORATION
AND PACIFIC GAS AND ELECTRIC
COMPANY'S NOTICE OF STAY OF
PROCEEDINGS**

Trial Date: None set

Complaint filed: December 24, 2018

Plaintiff's Response to Nominal Defendants' Notice of Stay of Proceedings

1 Plaintiff Rick Bowlinger ("Plaintiff") respectfully submits this response to Nominal Defendants
2 PG&E Corporation and Pacific Gas & Electric Company (collectively "PG&E", "Company", or
3 "Companies")'s Notice of Stay of Proceedings ("Notice of Stay"), filed on February 1, 2019. Plaintiff
4 hereby advises the Court that the Notice of Stay is inaccurate in that it states that the action is stayed as
5 to all parties. The automatic stay associated with PG&E's bankruptcy does not apply to Plaintiff's
6 claims against the Non-Debtor Defendants, which include Lewis Chew, Richard C. Kelly, Richard A.
7 Meserve, Benito Minicucci, Rosendo G. Parra, Anne Shen Smith, Fred J. Fowler, Roger H. Kimmel,
8 Forrest E. Miller, Eric D. Mullins, Barbara L. Rambo, Geisha J. Williams, Anthony F. Early Jr., Jason
9 P. Wells, Patrick M. Hogan, Julie M. Kane, Dinyar B. Mistry, David S. Thomason, Maryellen C.
10 Herringer, Jeh C. Johnson, Nickolas Stavropoulos, Christopher P. Johns, and Barry Lawson Williams.
11 Accordingly, Plaintiff states as follows:

12 1. Plaintiff filed a shareholder derivative complaint for breach of fiduciary duty, abuse of
13 control, corporate waste, and unjust enrichment on December 24, 2018. This complaint seeks damages
14 for breach of fiduciary duty, unjust enrichment, abuse of control, and corporate waste against numerous
15 Defendants including PG&E, Pacific Gas & Electric Company, and certain of PG&E's current and past
16 officers and directors.

17 2. In addition to PG&E, the complaint names the following 22 defendants: Lewis Chew,
18 Richard C. Kelly, Richard A. Meserve, Benito Minicucci, Rosendo G. Parra, Anne Shen Smith, Fred J.
19 Fowler, Roger H. Kimmel, Forrest E. Miller, Eric D. Mullins, Barbara L. Rambo, Geisha J. Williams,
20 Anthony F. Early, Jr., Jason P. Wells, Patrick M. Hogan, Julie M. Kane, Dinyar B. Mistry, David S.
21 Thomason, Maryellen C. Herringer, Jeh C. Johnson, Nickolas Stavropoulos, Christopher P. Johns, and
22 Barry Lawson Williams (collectively, the "Non-Debtor Defendants"). Plaintiff alleges that the Non-
23 Debtor Defendants violated California common law.

24 3. On February 1, 2019, PG&E filed the Notice of Stay.

25 4. A Case Management Conference is scheduled in this action for May 29, 2019.

26 5. The automatic bankruptcy stay applies only to the debtor nominal defendants (PG&E
27 Corporation and Pacific Gas & Electric Company) and does not extend to the Non-Debtor Defendants.
28

Specifically, “[i]n the absence of special circumstances, stays pursuant to section 362(a) are limited to debtors and do not include non-bankrupt co-defendants.” *Ingersoll-Rand Fin. Corp. v. Miller Mining Co.*, 817 F.2d 1424, 1427 (9th Cir. 1987); *see also Croyden Assocs. v. Alleco, Inc.*, 969 F.2d 675, 677 (8th Cir. 1992) (“We are persuaded that the stay required by section 362 should extend only to claims against [the party in bankruptcy], and that the stay is not available to nonbankrupt codefendants, even if they are in a similar legal or factual nexus with the debtor.”) (citation omitted); *Fortier v. Dona Anna Plaza Partners*, 747 F.2d 1324, 1330 (10th Cir. 1984) (“The language of the statute extends stay proceedings only to actions ‘against the debtor.’ There is nothing in the statute which purports to extend the stay to causes of action against solvent co-defendants of the debtor.”).

6. For these reasons, Plaintiff requests that the Case Management Conference currently set for May 29, 2019 remain on calendar, and that any court order referring to a stay in this action clarify that the stay only applies to Nominal Defendants PG&E Corporation and Pacific Gas & Electric Company.

Dated: February 5, 2019

Respectfully submitted,

BOTTINI & BOTTINI, INC.
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Yury A. Kolesnikov (SBN 271173)

s/ Francis A. Bottini, Jr.

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1 **PROOF OF SERVICE**

2 I am employed in the County of San Diego, State of California. I am over the age of 18 years
3 and not a party to this action. My business address is: BOTTINI & BOTTINI, INC., 7817 Ivanhoe
4 Avenue, Suite 102, La Jolla, California 92037.

5 On February 5, 2019, I served a true copy of the following document(s) described as:

6 **PLAINTIFF'S RESPONSE TO NOMINAL DEFENDANTS PG&E CORPORATION**
7 **AND PACIFIC GAS AND ELECTRIC COMPANY'S NOTICE OF STAY OF**
8 **PROCEEDINGS**

8 on the following parties:

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20 *Attorneys for Nominal Defendants PG&E Corporation and*
21 *Pacific Gas and Electric Company*

22 ☒ BY U.S. MAIL. I am readily familiar with the Firm's practice of collection and processing
23 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
24 Service on that same day with postage thereon fully prepaid in the ordinary course of
25 business, addressed to the parties listed above.

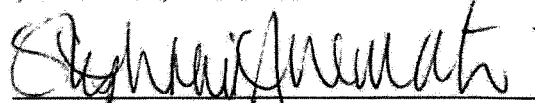
25 ☐ BY OVERNIGHT DELIVERY. I caused such envelope to be delivered by hand to the
26 offices of the addressee(s) via FEDEX OVERNIGHT DELIVERY SERVICE.

27 ☐ BY PERSONAL SERVICE. I caused the above-described document(s) to be personally
28 delivered to the offices of the party(ies) listed above.

☐

BY ELECTRONIC MAIL. I transmitted the above-described document(s) by electronic mail to the parties listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 5, 2019, at La Jolla, California.


Stephanie M. Ammirati